

Published in The Wichita Eagle on

July 17, 2011

ORDINANCE NO.

49-027

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.**

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2011-00017

Zone change request from LI Limited Industrial and LC Limited Commercial to GC General Commercial on property described as:

Lot 1, Block 1, Kiser West Second Addition, Wichita, Sedgwick County, Kansas.

Generally located on the southwest corner of Greenwich Road and 13th Street North.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

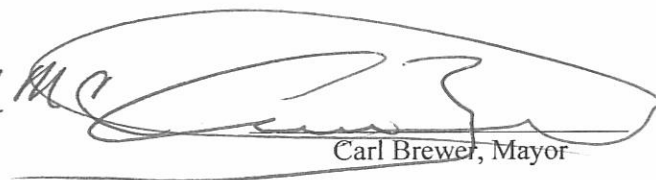
SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 12th day of July, 2011.

ATTEST:



Karen Sublett, City Clerk



Carl Brewer, Mayor



APPROVED AS TO FORM:



Gary E. Rebenstorf, Director of Law



CUP11-15

City of Wichita
City Council Meeting
June 28, 2011

TO: Mayor and City Council

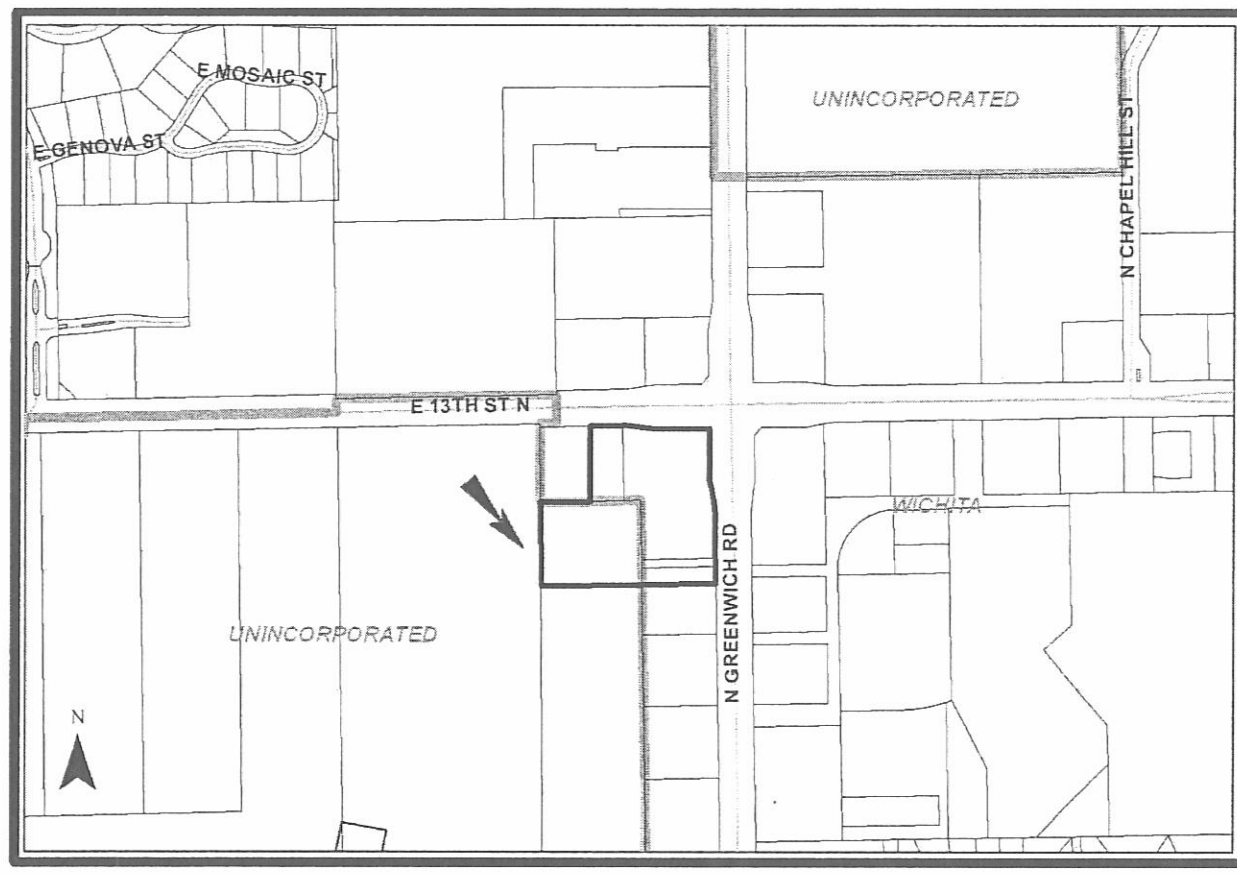
SUBJECT: ZON2011-00017 associated with CUP2011-00015 – a zone change from LI Limited Industrial and LC Limited Commercial to GC General Commercial, and DP-254 Kiser West Commercial Community Unit Plan Amendment #1; generally located on the southwest corner of 13th Street North and Greenwich Road. (District II)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to conditions (10-0).

MAPD Staff Recommendations: Approve, subject to conditions.



BACKGROUND: The applicants are seeking to amend the existing Kiser West Community Unit Plan (CUP) DP-254 by increasing the size of Parcel 2, adding uses and rezoning the enlarged Parcel 2 from LC Limited Commercial ("LC") to GC General Commercial ("GC"). Community Unit Plan DP-254 currently contains 13.71 net acres divided among ten parcels that are zoned LC Limited Commercial ("LC"), subject to CUP's development standards. Uses permitted by the existing CUP are: all uses permitted in the LC zoning district, except for correctional placement residences, group residences, group homes, residential uses, halfway houses, night clubs including adult entertainment, taverns and drinking establishments on all parcels; and except for service stations, convenience stores, drive-in/drive-through restaurants and vehicle repair on Parcels 7, 8 and 9. All uses that require conditional use permits in the LC district are only permitted by amending the CUP. Maximum building height in the existing CUP is limited to 35 feet.

The applicant wishes to modify the existing CUP in the following ways: a) add to Parcel 2 (currently vacant) 2.17 acres of unplatted LI Limited Industrial ("LI") zoned land located south of Parcel 1 (the existing carpet store at 11041 East 13th Street North) and Parcel 1A (vacant) and west of existing Parcels 3 and 4 (both of which are currently vacant); b) down zone the unplatted 2.17 acres of LI zoned property described in the previous sentence to GC; c) expand the size of Parcel 2 from 1.62 acres to six acres by adding to Parcel 2 the following tracts: Parcel 1-a (0.62 acre), Parcel 3 (1.28 acres), the northern 0.315 acre of Parcel 4 and the 2.17 acres of the unplatted LI property; d) up zone the LC zoned portion of Parcel 2 to GC; e) increase Parcel 2 maximum building height from 35 to 45 feet; f) modify permitted uses for Parcel 2 to be all uses permitted in the GC zoning district except: all residential uses, community assembly, convalescent care facility, general and limited, correctional placement residences, general and limited, golf course, group home, general and limited, recycling collection station, public and private, pawn shop, recreational vehicle campground, riding academy or stable, sexually oriented business, tattooing and body piercing facility, asphalt or concrete plant and manufacturing, general and limited; g) amend General Provision 7 to increase sign height from 20 feet to 25 feet; h) delete or amend General Provision 9 regarding Architectural Control; i) delete General Provision 10 and j) modify General Provision 18 regarding the screening of dumpsters and work areas.

As proposed, the following uses would be permitted: auditorium or stadium, *cemetery, church or place of worship, day care limited and general, government service, hospital, library, nursing facility, parks and recreation*, recycling processing center, *reverse vending machine, safety service, school elementary, middle and high, university or college, utility minor, animal care limited and general, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, car wash, construction sales and service, convenience store* (currently prohibited), *entertainment establishment in the city, event center in the city, farmer's market in the city, funeral home, hotel or motel, kennel hobby or boarding/breeding/training, marine facility recreational, medical service, microbrewery, monument sales, nightclub in the city* (currently prohibited), *nurseries and garden centers, office general, parking area commercial, personal care service, personal improvement service, post office substation, printing and copying limited*, printing and publishing general, *recreation and entertainment indoor and outdoor, restaurant* (drive-in/drive through restaurant currently prohibited), *retail general, rodeo in the city, secondhand store, service station* (currently prohibited), *tavern and drinking establishment* (currently prohibited), *teen club in the city*, vehicle and equipment sales, outdoor, *vehicle repair limited and general, vocational school, warehouse, self-service storage, wireless communication facility, asphalt plant limited*, research services, storage outdoor as a principal use, vehicle storage yard, warehousing, welding and machine shop, wholesale or business services, *agriculture, agricultural research and agricultural sales and service*. (Italicized uses are currently allowed by the CUP; non-italicized uses would be added.)

Permitted uses for Parcels 1, 4, 5, 6, 7, 8 and 9 are to remain unchanged: all uses permitted in the LC district, except correctional placement residences, group residences, group homes, residential uses, halfway houses, night clubs including adult entertainment, taverns and drinking establishments; and except the following additional uses on Parcels 7, 8 and 9, service stations, convenience stores, drive-in/drive-through restaurants and vehicle repair. All uses that require conditional use permits in the LC district are only permitted by amending the CUP.

The net result of these proposed changes from a) through f) are: Parcels 1a and 3 are deleted; Parcel 4 is reduced from 1.29 acres to .975 acres, Parcel 2 is increased in size to six acres; Parcel 2 is rezoned from LC to GC; maximum building height is increased to 45 feet and Parcel 2 is permitted GC uses that were previously prohibited. All other parcels within the CUP except for Parcel 2 would remain zoned LC subject to the CUP's development standards. With respect to proposed amendment g), requesting allowable sign height to be increased from 20 feet to 25 feet, staff recommends approval. Regarding proposed amendment h), the applicant and staff agreed to the following language: All buildings except those on Parcel 2 shall have the same predominate exterior building materials with consistent architectural character, color and texture, and consistent lighting design (fixtures, poles, lamps, etc.) as established by the owner of Parcel 2 in compliance with the requirements of the Covenants, Conditions and Restrictions recorded in the Sedgwick County Register of Deeds office on DOC. #/Film-PG: 28867206, and as approved by the Director of Planning. The applicant requests General Provision 10 be deleted, and staff agrees with the request.

Property surrounding the CUP is zoned LC and LI and is either vacant or developed with a bank, restaurant, hotel, carpet store, hotel, Flight Safety facility and Hawker Beechcraft runway. The subject site is located approximately 1,000 feet northeast of the northern end of Hawker Beechcraft's runway.

The property is also subject to the Airport Hazard Overlay district (City Code Chapter 28.08) whose purpose is to prevent the establishment of airport hazards on airports and their environs by establishing height limits and use restrictions. Height limits above 25 feet are established by comparing a location's elevation to a set of transitional, horizontal and conical zones that have been charted for each airport (Section 9). Section 13 contains use restrictions: (A) no use may be made of land or water within any zone established by this code in such manner as to make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, create smoke, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way, endanger or interfere with the landing, takeoff or maneuvering of aircraft to the use the airport; (B) requires lighting to be shielded and (C) allows structures and trees to a height of 25 feet. Section 15 (A) requires a permit to be obtained from the Zoning Administrator when there is a material change in the use of the land is made or if a structure or pole is erected.

Analysis: At the MAPC meeting held on May 26, 2011, the MAPC voted (10-0) to approve subject to the staff recommendations. No citizens were present to speak on the case. No protests have been received.

The action of the MAPC was to **APPROVE** the request subject to replatting the amended portions of the CUP within one year and the following conditions:

1. Approve proposed amendment a): add to Parcel 2 (currently vacant) 2.17 acres of unplatted LI Limited Industrial ("LI") zoned land located south of Parcel 1 (the existing carpet store at 11041 East 13th Street North) and Parcel 1A (vacant) and west of existing Parcels 3 and 4 (both of which are currently vacant);
2. Approve proposed amendment b): down zone the unplatted 2.17 acres of LI zoned property described in the previous sentence to GC;
3. Approve proposed amendment c): expand the size of Parcel 2 from 1.62 acres to six acres by adding to Parcel 2 the following tracts: Parcel 1-a (.62-acre), Parcel 3 (1.28 acres), the northern .315-acre of Parcel 4 and the 2.17 acres of the unplatted LI property;
4. Approve proposed amendment d): up zone the LC zoned portion of Parcel 2 to GC;
5. Approve proposed amendment e): increase Parcel 2 maximum building height from 35 to 45 feet;

6. Approve proposed amendment f): modify permitted uses for Parcel 2 to be all uses permitted in the GC zoning district except: all residential uses, community assembly, convalescent care facility, general and limited, correctional placement residences, general and limited, golf course, group home, general and limited, recycling collection station, public and private, pawn shop, recreational vehicle campground, riding academy or stable, sexually oriented business, tattooing and body piercing facility, asphalt or concrete plant and manufacturing, general and limited;

7. Approve proposed amendment g): amend General Provision 7 to increase sign height from 20 feet to 25 feet;

8. Approve proposed amendment h): All buildings except those on Parcel 2 shall have the same predominate exterior building materials with consistent architectural character, color and texture, and consistent lighting design (fixtures, poles, lamps, etc.) as established by the owner of Parcel 2 in compliance with the requirements of the Covenants, Conditions and Restrictions recorded in the Sedgwick County Register of Deeds office on DOC. #/Film-PG: 28867206, and as approved by the Director of Planning;

9. Approve proposed amendment i): the deletion of General Provision 10 dealing with an owners' association;

10. Item j): Add to the following statement to the General Provisions section: The Kiser West Addition CUP shall be revised to include an additional General Provision for stormwater management that states the following: Parcel 1 thru 9 shall comply with stormwater management regulations, including the planning, design, construction, and long term operation and maintenance of the subdivision's permanent water quality treatment BMPs, stormwater detention, and channel protection volume. Prior to the issuance of a building permit, the applicant and/or developer will be required to submit an updated drainage plan identifying how the subdivision will address these requirements; and

11. Item k): Provide four copies of the approved CUP within thirty days of approval.

Financial Considerations: Approval of this request will not create any extraordinary financial considerations for the City of Wichita.

Goal Impact: The application will assist with the implementation of one of the City's goals - Promote Economic Vitality.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1) Adopt the findings of the MAPC and approve the zone change and DP-254 Amendment #1 subject to the recommended conditions; authorize the Mayor to sign the ordinance and withhold publication of the ordinance until the plat is recorded with the Register of Deeds (simple majority required)

Attachments: CUP drawing
MAPC minutes
Ordinance